UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/754,018	01/03/2001	Motoshi Ito	YAMAP0748US	3434

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EXAMINER
HENNING, MATTHEW T

ART UNIT	PAPER NUMBER
2131	

DATE MAILED: 05/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/754,018	Applicant(s) ITO ET AL.	
	Examiner Matthew T. Henning	Art Unit 2131	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>26 April 2006</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

  a) ☒ The period for reply expires <u>3</u> months from the mailing date of the final rejection.

  b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

    Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

  (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);

  (b) ☐ They raise the issue of new matter (see NOTE below);

  (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

  (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

    NOTE: *See Continuation Sheet.* (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

  The status of the claim(s) is (or will be) as follows:

  Claim(s) allowed: *None.*

  Claim(s) objected to: _____.

  Claim(s) rejected: *1-3 and 5-9.*

  Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____

13. ☐ Other: _____.

CHRISTOPHER REVAI
PRIMARY EXAMINER
[signature] 5/4/06

Continuation of 3. NOTE: "the data scramble circuit is a single hardware circuit and acts as a part of an error correction circuit included in the single hardware circuit" has not been presented before and therefore would require further search and consideration .

Continuation of 11. does NOT place the application in condition for allowance because: Regarding applicants' argument that the cited art does not use a single circuit for data scramble and error correction, the examiner does not find the argument persuasive. This is due to the fact that this is a new limitation of the amendment that was not entered.

Regarding applicants' argument that Oishi did not disclose that the decryption circuit was part of the error correction circuit, the examiner does not find the argument persuasive. The applicants rely on the fact that there is no "dashed box surrounding the steps" as showing that the steps are independent of each other. Although the examiner disagrees with this line of reasoning, the examiner points out that Fig. 1 of Oishi clearly shows a dashed box (21) around the two circuits (12 and 13) and therefore, by the applicants own reasoning, the two circuits are not independent. Furthermore, it is clearly shown in Fig. 1 of Oishi that the error correction depends on the decryption as the input to the error correction comes from the decryption block. Therefore, the decryption block acts as part of the error correction block, and more specifically acts as an input to the error correction block. Therefore, the examiner does not find the argument persuasive.

Regarding applicants' argument that the decryption circuit of Oishi is separate and distinct from the error correcting decoding circuit, the examiner does not find the argument persuasive. There is no limitation in the claims that restricts the decryption and error correction circuits from being separate and distinct. Furthermore, the error correcting circuit is not independent from the decryption circuit as the error correction circuit receives input directly from the decryption circuit. Therefore, the examiner does not find the argument persuasive.

Regarding applicants' argument that if a first process "feeds" a second process, it does not follow that the first process acts as part of the second process, the examiner does not find the argument persuasive. Consider the following analogy: when making meringue, the directions call for whipped egg whites. In order to get whipped egg whites, one first takes a whole egg into a first step of separating the egg white from the yolk. Then a second step of whipping the egg whites is performed. In order to get whipped egg whites, the egg whites must be obtained by the separation step. Therefore, the whipping step depends on the separation step because without the separation step, the input to the whipping step is not correct, and the meringue is ruined. Similarly, if the decryption is not performed on the data to be error corrected in Oishi, then the error correction will fail as the wrong data will be error corrected. As such, the decryption is an integral part of the error correction. As such, the examiner does not find the argument persuasive.